File No. 68

Substitute Senate Bill No. 499

Senate, March 19, 1998. The Committee on Energy and Technology reported through SEN. PETERS, 20th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING SLAMMING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 16-256i of the general statutes is repealed and the following is substituted in lieu thereof:

(a) AS USED IN THIS SECTION:

(1) "CUSTOMER" MEANS THE INDIVIDUAL IN WHOSE NAME THE LOCAL EXCHANGE CARRIER HAS ESTABLISHED AN ACCOUNT FOR TELECOMMUNICATIONS SERVICES AND IN THE CASE OF A BUSINESS CUSTOMER, "CUSTOMER" INCLUDES ANY INDIVIDUAL WHO IS AUTHORIZED BY THE BUSINESS TO AUTHORIZE A CHANGE IN TELECOMMUNICATIONS SERVICES;

(2) "TELEMARKETER" MEANS ANY INDIVIDUAL WHO, BY TELEPHONE, INITIATES THE SALE OF TELECOMMUNICATIONS SERVICES FOR A TELECOMMUNICATIONS COMPANY; AND

(3) "TELEMARKETING" MEANS THE ACT OF SOLICITING BY TELEPHONE THE SALE OF TELECOMMUNICATIONS SERVICES.

(b) A telecommunications company [, as defined in section 16-1,] shall not submit a primary, local or intrastate interexchange carrier change order to a company providing local exchange telephone service prior to the order being confirmed in accordance with the provisions of Subpart K of Part 64 of Title 47 of the Code of Federal Regulations, as from time to time amended, AND THE PROVISIONS OF THIS SECTION, IF APPLICABLE.

(c) A TELECOMMUNICATIONS COMPANY OR ITS AFFILIATE OR AUTHORIZED REPRESENTATIVE USING TELEMARKETING TO INITIATE THE SALE OF TELECOMMUNICATIONS SERVICES SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS FOR ALL SUCH TELEMARKETING CALLS: (1) THE TELEMARKETER SHALL IDENTIFY HIMSELF BY NAME AND IDENTIFY THE TELECOMMUNICATIONS COMPANY PROVIDING THE PROPOSED SERVICES AND THE NAME OF THE BUSINESS, FIRM, CORPORATION, ASSOCIATION, JOINT STOCK ASSOCIATION, TRUST, PARTNERSHIP, OR LIMITED LIABILITY COMPANY, IF DIFFERENT FROM THE TELECOMMUNICATIONS COMPANY, FOR WHOM THE CALL IS MADE; (2) THE TELEMARKETER SHALL STATE THAT ONLY THE CUSTOMER MAY AUTHORIZE A CHANGE IN SERVICE; (3) THE TELEMARKETER SHALL CONFIRM THAT HE IS SPEAKING TO THE CUSTOMER; (4) THE TELEMARKETER SHALL CLEARLY EXPLAIN THE PROPOSED SERVICES IN DETAIL AND EXPLAIN THAT AN AFFIRMATIVE RESPONSE WILL CHANGE THE CUSTOMER'S TELECOMMUNICATIONS CARRIER; (5) THE TELEMARKETER SHALL REQUIRE THE CUSTOMER TO AFFIRMATIVELY STATE THAT HE UNDERSTANDS THAT IF AN AFFIRMATIVE RESPONSE IS GIVEN, A CHANGE IN TELECOMMUNICATIONS SERVICE WILL BE MADE AS A RESULT OF THE TELEMARKETING CALL; (6) THE TELEMARKETER SHALL REQUIRE THE CUSTOMER TO STATE THAT HE AFFIRMATIVELY ACCEPTS A CHANGE IN HIS TELECOMMUNICATIONS CARRIER; AND (7) THE PRIMARY, LOCAL OR INTRASTATE INTEREXCHANGE CARRIER CHANGE ORDER SHALL IDENTIFY THE INDIVIDUAL WITH WHOM THE TELEMARKETER CONFIRMED THE AUTHORIZATION TO CHANGE THE INTEREXCHANGE CARRIER.

(d) A COMPANY PROVIDING LOCAL EXCHANGE TELEPHONE SERVICE SHALL REJECT ANY PRIMARY, LOCAL OR INTRASTATE INTEREXCHANGE CARRIER CHANGE ORDER THAT DOES NOT INCLUDE THE NAME OF THE CUSTOMER. THE NOTICE OF REJECTION SHALL CLEARLY INDICATE THAT THE ORDER WAS REJECTED FOR LACK OF AUTHORIZATION BY THE CUSTOMER.

(e) (1) A TELECOMMUNICATIONS COMPANY THAT HAS NOT OBTAINED WRITTEN AUTHORIZATION PRIOR TO A CHANGE IN INTEREXCHANGE CARRIERS SHALL SEND BY FIRST CLASS MAIL TO THE CUSTOMER NOT MORE THAN THREE BUSINESS DAYS AFTER OBTAINING ELECTRONIC OR

VERBAL AUTHORIZATION FOR SUCH CHANGE A FORM NOTIFYING THE CUSTOMER THAT THE CUSTOMER'S PRIMARY, LOCAL OR INTRASTATE INTEREXCHANGE CARRIER HAS BEEN CHANGED, ALONG WITH A POSTPAID POSTCARD WHICH THE CUSTOMER CAN USE TO DENY OR CANCEL THE CHANGE ORDER. THE FORM SHALL CONTAIN (A) A CLEAR STATEMENT THAT IF THE CUSTOMER DOES NOT RETURN THE POSTCARD WITHIN FOURTEEN DAYS AFTER THE CHANGE IN CARRIERS THE NEWLY REQUESTED TELECOMMUNICATIONS CARRIER WILL CONTINUE AS THE CUSTOMER'S CARRIER, (B) THE NAME, ADDRESS AND TELEPHONE NUMBER OF BOTH THE CUSTOMER'S PREVIOUS CARRIER AND THE CUSTOMER'S NEWLY REQUESTED CARRIER, (C) A DESCRIPTION OF ANY TERMS, CONDITIONS OR CHARGES THAT WILL BE INCURRED, (D) THE NAME OF THE INDIVIDUAL WHO AUTHORIZED THE CHANGE AND THE DATE SAID INDIVIDUAL AUTHORIZED THE CHANGE, (E) THE DATE OF THE CHANGE IN CARRIERS, (F) THE TOLL-FREE NUMBER FOR CUSTOMER COMPLAINTS FOR EACH SUCH CARRIER, (G) THE DEPARTMENT'S TOLL-FREE NUMBER FOR CUSTOMER COMPLAINTS, AND (H) THE DATE THE FORM WAS SENT TO THE CUSTOMER. IF THE TELECOMMUNICATIONS COMPANY RECEIVES A POSTCARD DENYING OR CANCELLING THE CHANGE POSTMARKED WITHIN THE FOURTEEN-DAY PERIOD BECAUSE THE INDIVIDUAL WHO AUTHORIZED THE CHANGE WAS NOT THE CUSTOMER, THE TELECOMMUNICATIONS COMPANY SHALL IMMEDIATELY SWITCH THE CUSTOMER'S INTEREXCHANGE CARRIER BACK TO THE CUSTOMER'S PREVIOUS CARRIER AND SHALL BE LIABLE TO THE PREVIOUS CARRIER IN AN AMOUNT EQUAL TO ALL CHARGES PAID BY THE CUSTOMER AFTER THE CHANGE TO THE NEW CARRIER.

(2) IT SHALL BE AN UNFAIR OR DECEPTIVE TRADE PRACTICE, IN VIOLATION OF CHAPTER 735a, FOR ANY TELECOMMUNICATIONS COMPANY TO UNREASONABLY DELAY OR DENY A REQUEST BY A CUSTOMER TO SWITCH A CUSTOMER'S INTEREXCHANGE CARRIER BACK TO THE CUSTOMER'S PREVIOUS CARRIER.

(f) THE DEPARTMENT SHALL ADOPT REGULATIONS IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 54 TO IMPLEMENT THE PROVISIONS IN THIS SECTION.

(g) A telecommunications company which the department determines, after notice and opportunity for a hearing as provided in section 16-41, has failed to comply with the provisions of this section shall pay to the state a civil penalty of not more than five thousand dollars per violation.

Sec. 2. (NEW) All bills for telecommunications services, whether issued by a telecommunications company or by a billing service, shall contain the name of each carrier providing service as well as a toll-free number for customer complaints for each such carrier printed clearly and conspicuously on the portion of the bill relating to each carrier.

STATEMENT OF LEGISLATIVE COMMISSIONERS: In subsection (c)(7) of section 1, "TELECOMMUNICATIONS SERVICES" was changed to "INTEREXCHANGE CARRIER" for internal consistency.

ET COMMITTEE VOTE: YEA 16 NAY 0 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 499

STATE IMPACT	Minimal Workload Increase, Can Be Absorbed, Minimal Cost, Potential Revenue Gain, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Department of Public Utility Control, Department of Consumer Protection, and Office of Attorney General

EXPLANATION OF ESTIMATES:

The Department of Public Utility Control(DPUC) may experience a minimal workload increase to the extent that this bill generates more consumer calls to the toll-free number operated by the department. Additionally, this bill will result in a minimal cost to the DPUC to adopt regulations, yet it is expected that all workload increases can be handled within the anticipated budgetary resources of the department.

Under the Unfair Trade Practices Act, the Department of Consumer Protection (DCP)has two methods for resolving complaints, 1) formal administrative hearings, or 2) forwarding the complaint to the Attorney General's Office for litigation.

If most of the cases are handled administratively by DCP, a minimal workload increase is anticipated to result for the Office of the Attorney General which can be handled within the agency's anticipated budgetary resources.

Under the Unfair Trade Practices Act, civil penalties can be imposed for violations, thus, a revenue gain to the General Fund is anticipated. The extent of the additional revenue cannot be determined, as it would depend upon the number of violations which occurred and the amount of penalty imposed.

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OLR BILL ANALYSIS

sSB 499

AN ACT CONCERNING SLAMMING

SUMMARY: This bill requires telecommunications companies to take additional steps to prevent the unauthorized switching of a customer's telecommunications carrier (commonly called "slamming"). It requires that all telecommunications services bills whether issued by a telecommunications company or by a billing service, contain the name of each carrier providing services. The bill must also contain a toll-free number for customer complaints for each such carrier, printed clearly and conspicuously on the part of the bill relating to the carrier.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Slamming

By law, a telecommunications company cannot submit an order to change a customer's local or long-distance carrier unless it confirms the switch using one of four methods specified in federal regulation. This bill imposes additional requirements on such companies and new requirements on telemarketers working for them.

Under the bill, a telemarketer working for a telecommunications company, its affiliate, or authorized telemarketing representative must:

1. identify himself, the telecommunications company whose services he is marketing, and the company for whom the call is being made if this is not the

telecommunications company;

2. state that only the customer can authorize a change in service (the customer is the person whose name is on the local telephone service account; in the case of a business, it is the person authorized to change telecommunications service);

3. must confirm that he is speaking to the customer;

4. clearly explain the proposed services in detail and explain that if the customer says yes, his service will be changed;

5. require the customer to affirm, that he understands that if he says yes his service will be changed; and

6. require the customer to state that he wants to change his carrier.

The change order must identify the person who authorized the change. The local telephone company must reject any change order that does not include the customer's name. The rejection notice must clearly indicate that the order was rejected for lack of authorization by the customer.

Under the federal regulations, one of the four ways a telecommunications company can confirm a change order is by obtaining the customer's written authorization. Under the bill, if the company uses another method to confirm a change in long-distance service, it must mail a confirmation notice to the customer. The notice must be sent by first class mail within three business days after the customer authorized the change. It must inform the customer that his local or long-distance carrier has been changed and include a postcard with which the customer can deny or cancel the change. The notice must contain: (1) a clear statement that the customer has 14 days to return the postcard to reverse the change; (2) the name, address, and telephone number of the customer's previous and new carrier; (3) a description of any charges, terms, or conditions that will be incurred; (4) the date of the change; (5) the name of the person who authorized the change; (6) the toll-free complaint numbers of the carriers and the Department of Public Utility Control (DPUC); and (7) the date the notice was mailed.

If the company receives the post card within the 14-day period, it must immediately switch the customer back. The company is liable to the former carrier for all of the charges incurred by the customer.

The bill makes a telecommunications company's unreasonable delay or denial of a request to switch back a customer's long-distance carrier an unfair trade practice. It also subjects a telecommunications company that violates any of the above provisions to a civil penalty of up to $5,000 per violation. DPUC must adopt regulations to implement these provisions.

BACKGROUND

Unfair Trade Practices

Under the Unfair Trade Practices Act, the consumer protection commissioner may investigate complaints, issue cease and desist orders, order restitution in cases involving less than $5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, accept voluntary statements of compliance, and issue regulations defining what constitutes an unfair trade practice. The act also allows individuals to bring suit. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to $5,000 for willful violations and $25,000 for violating restraining orders.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute
Yea 16 Nay 0